

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

September 18, 2000

IN RE:

ACCESS ONE COMMUNICATIONS

)
)
)
)

DOCKET NO. 00-00687

ORDER APPROVING SETTLEMENT AGREEMENT

This matter came before the Tennessee Regulatory Authority ("Authority" or "TRA") at a regularly scheduled Authority Conference held on August 15, 2000, on the Petition of Access One Communications ("Access One") and the Consumer Services Division of the TRA (the "CSD") for consideration of a proposed Settlement Agreement, attached hereto as Exhibit A.

From October 1999 to May 2000, the CSD received and investigated twenty-four (24) complaints from Tennessee consumers who alleged that their local telephone service had been switched to Access One without their permission. In May 2000, the CSD entered into settlement negotiations with Access One. On July 28, 2000, Access One and the CSD executed a proposed Settlement Agreement which was filed in this docket for consideration by the Authority. The proposed Settlement Agreement was the result of the CSD's investigation into complaints against Access One related to the switching of the local service of certain Tennessee consumers, specifically violations of Authority Rule 1220-4-2-.56(5) and Tenn. Code Ann. § 65-4-125.

As a part of this Settlement Agreement, Access One agrees to implement measures, as outlined in Exhibit A, to prevent similar occurrences in the future. Access One represents that, as a result of these complaints, it has ceased all activity with outside telemarketing firms and has

begun hiring and training its own sales staff which will operate under Access One's direct management.¹ Further, Access One will notify, in writing, all of its current Tennessee customers advising them that they would be entitled to a refund of their Access One charges if their local telephone service was switched without their permission and explaining to them the procedures to follow to obtain such refunds. Access One agrees to work with the CSD on the content of the customer notification. Within sixty (60) days of the Authority's approval of the Settlement Agreement, Access One will mail such notification to all current Tennessee customers. Within six (6) months of the Authority's approval of the Settlement Agreement, Access One will provide a report to the CSD verifying the number of notices sent, the number of responses received, and the aggregate dollar amount of refunds issued to Tennessee consumers. In addition, Access One will pay to the Authority the amount of fifty thousand dollars (\$50,000) within thirty (30) days of the date of the Authority's approval of the Settlement Agreement.

At the Authority Conference on August 15, 2000, following a discussion with the parties and a review of the Settlement Agreement, the Directors voted unanimously to accept and approve the Settlement Agreement.

IT IS THEREFORE ORDERED THAT:

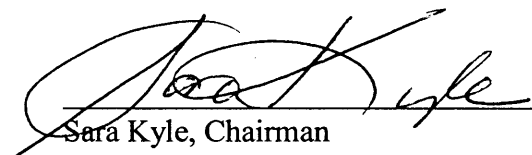
1. The Settlement Agreement, attached hereto as Exhibit A, is accepted and approved and is incorporated into this Order as if fully rewritten herein;
2. The amount of fifty thousand dollars (\$50,000) shall be paid by Access One into the Public Utilities Account of the TRA no later than September 14, 2000, thirty (30) days from the date of the Authority's approval of the Settlement Agreement;

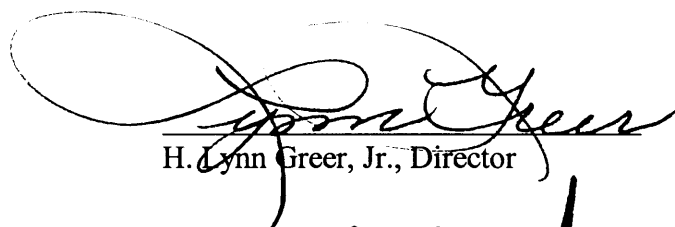
¹ Access One represented that the complaints of unauthorized switching of local telephone service were the result of utilizing outside telemarketing firms for making sales contacts with consumers.

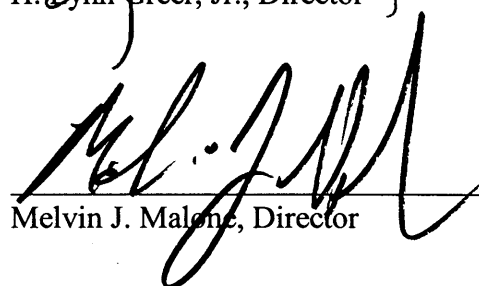
3. Upon payment of the amount of fifty thousand dollars (\$50,000), Access One is excused from further proceedings in this matter, provided that, in the event of any failure on the part of Access One to comply with the terms and conditions of the Settlement Agreement, the Authority reserves the right to re-open this docket for the purpose of securing compliance and enforcing the Settlement Agreement;

4. Any party aggrieved by the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within fifteen (15) days from the date of this Order; and

5. Any party aggrieved with the Authority's decision in this matter has the right of judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from the date of this Order.


Sara Kyle, Chairman


H. Lynn Greer, Jr., Director


Melvin J. Malone, Director

ATTEST:


K. David Waddell, Executive Secretary

Settlement Agreement

1. The purpose of this document is to memorialize a settlement agreement ("Agreement") between the Consumer Services Division of the Tennessee Regulatory Authority (the "CSD") and Access One Communications. On 11/3/98, Access One was issued a Certificate of Convenience and Necessity as a reseller of state-wide telecommunication services and therefore, Access One is subject to the applicable laws of the State of Tennessee and to the rules and regulations of the Tennessee Regulatory Authority (the "Authority").
2. From October 1999 to May 2000 the Authority has received approximately twenty-four (24) complaints from Tennessee consumers alleging that their local telephone service had been switched to Access One without their permission.
3. Access One has primarily used outside telemarketers to solicit customers on their behalf and all of these complaints resulted from a call from an outside telemarketing firm representing Access One. As a result of these complaints, Access One has ceased all activity with outside telemarketing firms. Since February of this year Access One has begun hiring and training their own inside sales staff under their direct management. This has ensured direct control over the sales process of all new customers.
4. Access One does not condone, and Access One's contracts and policies expressly prohibit the unauthorized switching of local phone service. Access One has initiated steps that after a customer accepts service and service authorization is verified by a third party, that the customer is then transferred to a welcome center to further validate all sales. This is done prior to any conversion of services.
5. On 5/19/00, Mr. Kevin Griffo of Access One met with Mr. Eddie Roberson and members of the Authority staff to discuss the complaints and the actions that Access One is taking to prevent any future complaints from occurring. The staff outlined several areas of concern including Solicitation, Third Party Verification Process, and the Complaint Process. The staff also requested additional information be forwarded by Access One to the Authority for review. The staff's concerns were restated in a letter dated 5/25/00 from Mr. John Connors of the Authority to Mr. Griffo.

6. On 6/6/00, Mr.Griffo responded in writing to the Authority outlining all changes made at Access One. These changes included revisions to the sales script, revisions to the Third Party Verification script and changes to the internal policies regarding actions taken when a complaint is received from the Authority. The data request by the Authority was also provided.
7. On 6/19/00 Mr. Conners of the Authority sent Mr.Griffo a request for supplemental data including the status on issuing credits on all slamming complaints. This data was sent to the Authority on 6/22/00 including verification that all customers that issued a slamming complaint have had any outstanding invoices credited and any invoices paid have been refunded.


The Agreed Terms Of Settlement

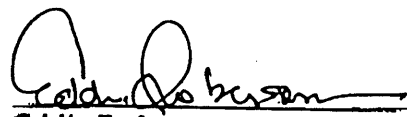
8. In order to resolve this matter, Access One and the Consumer Service Division have agreed to the following terms of the proposed settlement for consideration by the Authority:
 - 8.1. Access One agrees to fully comply with all Tennessee laws and regulations, including but not limited to T.C.A. §65-4-125 and T.R.A. rule 1220-4-2-.56.
 - 8.2. Access One shall notify, in writing, all of its current Tennessee customers advising them of their rights under Applicable Tennessee Law and explaining to them the procedures to follow to obtain refunds if their local and/or long distance service was switched to Access One without their authorization. Access One agrees to work with the Consumer Service Division on the content of the customer notification. Within sixty (60) days of approval of this Agreement by the Authority, Access One will mail such notification to all current Tennessee customers. Within six (6) months from the approval of this Agreement by the Authority, Access One will provide a report to the Consumer Service Division verifying the number of notices sent, the number of responses received, and the aggregate dollar amount of refunds issued.
 - 8.3. As of March 1,2000 Access One uses only in-house employees for telemarketing. Access One currently verifies all telemarketed acquisitions of new customers by use of independent Third Party Verification and will continue to

obtain the verbal, taped authorization of customers before changing their local service to Access One. Access One further agrees to follow all Tennessee rules and regulations relating to the use of independent Third Party Verifications.

- 8.4. Access One agrees to pay to the Authority the amount of \$50,000.00, which shall be used for consumer education, Tennessee Regulatory Authority expenses, or such other public purpose as the Authority may determine. Payment shall be made to the Authority within thirty (30) days of the date of the Authority's approval of this Agreement.
- 8.5. For and in consideration of Access One's payment and other undertakings and covenants described herein, the Consumer Services Division and Access One agree that this matter shall be closed following entry of an order reflecting the approval of this Agreement by the Authority, subject to being reopened by the Authority in the event of a breach of this Agreement by Access One or for other good cause. In addition, all complaints of unauthorized switching of local service that were or might have been prosecuted by the CSD against Access One or its officers, employees or agents pertaining to conduct engaged in prior to the date of this Agreement are hereby settled.

Entered into this the 28th day of July, 2000 by:


Elizabeth Stallings
President
Access One Communications
12001 Science Drive
Suite 130
Orlando, FL 32826
(407) 313- 1300


Eddie Roberson
Chief, Consumer Services Division
Tennessee Regulatory Authority
4560 James Robertson Pkwy
Nashville, TN 37243-0500
(615) 741- 2904